

# THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF APRIL 13, 1989

## MARTHA'S VINEYARD COMMISSION MEETING

Mr. John Early, Chairman, gave an introduction of the Gay Head Cliff Area DCPC by stating it was nominated by the Gay Head Planning Board and Conservation Commission in a nomination received by the Commission on February 28, 1989. The Commission voted to consider the nomination, which means to accept it and schedule a public hearing for input for our deliberations, that vote was on March 9, 1989. He referred to the staff briefs distributed to the public and stated this gives you the basic facts, a map, and a sheet that outlines the hearing procedure for the evening. He then thanked everyone for attending and the Town of Gay Head for providing these facilities and turned the meeting over to the Hearing Officer, Albert Fischer, Chairman of the Gay Head Cliff Area DCPC Committee and representative to the Commission from the Town of Gay Head.

The Martha's Vineyard Commission held a public hearing on Thursday, April 13, 1989 at 8:00 p.m. at the Gay Head Town Hall, Gay Head, MA, pursuant to Section 8 of Chapter 831, Acts of 1977, as Amended, and Massachusetts General Law, Chapter 30A, Section 2, and the Standards and Criteria regarding designation of a District of Critical Planning Concern adopted by the Commission and approved on September 8, 1975 by the Secretary of Communities and Development, to hear testimony and receive evidence as to whether the Commission should designate specific geographic areas of land and waters of Martha's Vineyard as described below in the boundaries as a District of Critical Planning Concern.

### Area accepted for Consideration of Designation:

All land in the Town of Gay Head beginning at the juncture of the south east bound of Lot 47, Map 6 and Lighthouse Road, running easterly and northerly along the eastern bound of said lot; thence northerly along the eastern bound of Lot 48, Map 6 to the Cliff's edge; then westerly and southerly and southeasterly along the Gay Head Cliff's upper edge to the northwest bound of Lot 57, Map 10; thence easterly along said lot's northern bound to Moshope Trail and northerly along said trail crossing the middle of the intersection of South Road and Lighthouse Road and continuing along the northern bound of Lighthouse Road to the point of origin.

The above area references assessor map and lot numbers from the Town of Gay Head.

Mr. Fischer read the Gay Head Cliff Area DCPC Public Hearing Notice, asked the Commissioners to introduce themselves, opened the hearing for testimony, described the order of the presentations and procedures for the hearing as shown in the outline, and introduced Carol Borer, MVC Executive Director, to make her presentation.

Ms. Borer referred to aerial photographs, topographic, and assessor's maps of the area and reiterated the boundaries using these maps. She noted the Town owned, existing structures, and lighthouse property depicted on the map with color coded dots. Ms. Borer then reviewed the staff notes (available in their entirety in the DCPC and Meeting file).

When there were no questions from the Commissioners for Ms. Borer, Mr. Fischer called on testimony from the Vineyard Environmental Resource Institute (VERI).

William Marks thanked the Commission for making this meeting possible. He stated that the VERI has the responsibility of management of 3 lighthouses with a 35 year lease, that has 30 years to go. We have renovated the East Chop lighthouse and this year we will spend approximately \$30,000 on renovations to the Gay Head lighthouse. This lighthouse has been in a state of disrepair for some time and has recently suffered from vandalism. We are here tonight, Mr. Bob McMahon will address you next, to speak with respect to the responsibilities we have over the lighthouse in relation to this proposed DCPC.

Mr. Bob McMahon stated that their leased property is small part of this DCPC and they, as an Institute, support this DCPC. Part of my job is raising funds for these lighthouses, currently we have \$30,000 to renovate the Gay Head lighthouse. He then answered questions from the Commissioners.

Mr. Ewing, Commissioner, asked what the \$30,000 would be used for? Mr. McMahon stated that it isn't as much as it appears to be when talking about light house repairs. We have to replace tempered glass destroyed by vandalism, hopefully replacing it with a glass more able to withstand vandalism, there is also a lot of rotting metal, and cracks in the structure that will need to be repaired. The East Chop renovations did a lot but that was in a better state of repair to begin with. Mr. Ewing asked if the renovations would be to the structure, specifically to the top of the structure? Mr. McMahon responded in the affirmative.

When there were no further questions Mr. Fischer called on Federal Agency Testimony.

Joan Welch, Department of the Interior, Coordinator of the National Natural Landmark Program for the Northeast Region, stated that the Landmark Program was initiated in 1962 to recognize unique ecological and geological features that are our national natural heritage whether they are located on public or private land. The Gay Head Cliffs are an exemplary landmark and were designated in 1965. The process for

becoming a landmark is one where the site is rigorously examined by scientists in the field, the evaluations is then peer reviewed by three other scientists in the field. After the landmark is designated it should be visited once a year by an expert to see if the values that make it a unique feature are still in tact. The past 2 status reports that we received at the National Park Service show that the Cliffs are threatened by physical and antropogenic processes. The antropogenic processes, specifically excessive climbing of the Cliffs and the mining of clay at the base of the Cliffs, are of concern and these activities must be addressed to protect the National Natural Landmark. We have already submitted as evidence the last 2 status reports that we received, I will also leave with you tonight a listing from the Section 8 report that is submitted to Congress every year, listing threatened landmarks, and a few brochures that explain the Program. Ms. Welch then asked if there were any questions.

Mr. Lee, Commissioner, asked in regard to the statement that an expert should be sent every year to evaluate the site, has this happened yearly since the designation? Ms. Welch explained that they are not very well funded and it has not been possible every year, however, there have been visits for the past three years.

Mr. Ewing, Commissioner, asked if the erosion has been tracked since the dedication in 1965? Ms. Welch stated that the Program didn't keep a management file on the site. Mr. Ewing stated it is known that the climbing of the Cliffs is exacerbating the erosion, is there any data that indicates the fencing has helped? Ms. Welch responded they have no figures on that, we don't own the site so we don't keep visitor records and can't respond on whether use has increased.

Mr. Lee asked, there must be other areas containing similar landmarks, how are they policed to discourage traffic and harmful effects? Ms. Welch explained that the Landmark Program was initiated to recognize unique features that do not fall under the Park Services land, the majority are private and public land so we do not manage them. Mr. Lee asked if they are given any guidelines? Mr. Welch responded yes, if we are requested we are happy to assist in reviewing or setting up guidelines for a site. Mr. Lee asked who is in charge of this program? Ms. Welch responded the National Park Service within the Department of the Interior.

Mr. Filley, after your last two year's reports did you make any recommendations? Ms. Welch responded that if you read the inspection reports we have been speaking with the Wampanoag Tribal Council and it was our understanding that they do have a management plan set up for the Cliffs which they would enact as soon as the Cliff was transferred into their hands, that has taken a long time to come through. Mr. Filley stated you don't have any recommendations for the problems shown by your inspections? Ms. Welch stated we list it as threatened and if we know the landowners we contact them to find out their plans.

Mr. McCavitt, Commissioner, asked for an explanation of what makes this a unique geological formation? Ms. Welch responded that the Cliffs are a preglacial formation of clay, and are very sensitive to

all forms of erosion, as you know, they are receding naturally by coastal erosion. They contain fossils of very old algae, etc. They are truly a very unique site and worthy of the landmark status.

Mr. Young asked if there were any management guidelines that accompanied the designation in 1965? Ms. Welch responded no.

When there were no further questions for Ms. Welch the hearing officer called on testimony from the Wampanoag Tribal Council representative.

Mr. Don Widdiss, President Wampanoag Tribal Council, stated that he thinks they are in a point in their history as well as the Town's where the management process supersedes the planning process. We are caught between a couple of bureaucracies, one is the Town, one is the council, and also the Federal government. The institution of a management plan is a function of our planning process. We need an understanding of the goals and aims of the designation as it relates to the Tribe. I am in support of anything that supplements, helps, assists or gets us to where we have a coherent management plan. The DCPC is one part of the process, another part is, in our case, Interior action. After the Interior action, the Tribe gets to go through its process to deal with the management plan. Now we are talking specifically of the face of the Cliffs and I think everyone knows the importance of the Cliffs from our point of view. There are certain considerations: Access; I am not sure that access to any part of the Cliffs either denied or created is being addressed. We would certainly like to limit it, that is not to limit enjoyment of the Cliffs; it is, as was mentioned before, to limit the erosion, the people erosion as you would call it. The question of how to deal with access has to be addressed in the DCPC. How do we, owning the face of the Cliffs as a theoretical entity since it changes all the time, deal with the use of the face of cliffs. We have to depend on what you do to assist us, you cannot deal with the management without having some concept of how the Council plans to deal with it. The point regarding access is that we have to be in position to be comfortable with the ability of the Town and whatever mechanism the Commission develops to deal with that. It is important, not just for erosion sake, but also for the liability that is incurred. I think there are going to be some problems with clay being removed. Right now the only people who are supposed to be removing clay are members of the tribe. That is one thing we have to look at. I think, to the Commission, we are at a point where we would like our responsibility to work with what happens to the designation. There are land use questions that I am not particularly comfortable with, although there are some considerations in terms of those people who have been limited in the use of their land for whatever reason. The ultimate proposal in terms of what I would look at is, what is going to happen to the Town owned lands that the Cliffs do not encompass and how are you going to deal with those in terms of how the Tribe is going to be able to assist with the development of a cooperative arrangement between the the Town, the Tribe, the Interior undersecretary, etc. to have some type of cooperative agreement? Jurisdiction is going to be a problem because no one is sure what the jurisdiction is going to be, who is going to tell whoever is on the Cliffs to get off? I am totally in support of any plan that is going to show a plus gain for the Vineyard, the Town,

the Tribe, and for the tourists. We have a fence committee in Gay Head, which is commendable, beautifying the cliff area where people view the cliffs, I see that as a symbolic step to get some sense as to how we are going to control it. There are some fences that may not be physical, they may be an understanding that it is not good to go down the Cliffs, how do you do that? As to land use issues, I will comment by saying that it is probably in the best interest of everybody if the Town turned over a major portion of the land at the Cliffs to the Tribe. I say this just to bring up a concept, we are in the position to access a lot more resources. The tribe has been waiting for the appointment of a undersecretary since the inauguration. Since we have not seen an undersecretary for Indian Affairs be appointed we really don't have anyone to turn to except the Department itself and as the representative states there are really no funds available. We do have access to resources. It is an extreme point of view but it shows that when you implement a plan you are going to have to be able to fund it. If there is a management plan who is going to do it, do you expect the Town to take on more of the regulatory burden or does it become a regional problem, a tribal problem?

Mr. Morgan stated that we expect whatever happens here will happen with a union of the Martha's Vineyard Commission, the Tribal Council, the Town of Gay Head and the public. I couldn't imagine any one group planning the future of the Cliffs. The DCPC process is a completely united front working on these problems.

Mr. Jason, Commissioner, asked when the Tribal Council will be prepared to start a management plan for the Cliffs? Mr. Widdiss responded that one plan was to develop a contingency plan for eventual transfer of the property. I think it is a problem that is at the feet of the Interior since they have taken over a year to transfer. Our legislation mandated that this property be transferred by last summer, it hasn't been. We have been on everybody from the Interior to the Congressional Committee to get this thing transferred. I don't think the Tribe wants to get into a situation such as this, where the Tribe sets up a contingency plan and the DCPC comes along and changes the parameters with which we have to deal with. Mr. Jason stated that it should all be developed at the same time which is why I'm trying to get a feeling for when the Council is going to be prepared to deal with the management plan. Mr. Widdiss responded we could deal with it today, but technically we don't own the land until the Bureau of Indian Affairs has taken it into trust for the Tribe and has indicated this, the Town owns it now. If we institute a management plan and the transfer does not take place it is a practical questions of whether we will be able to do it, we don't want to burden the Town. Mr. Jason stated that the face of the Cliffs is exempted from Chapter 831 and we have no control over it. Shouldn't we all be working together? Mr. Widdiss stated we are in a sense, it would be nice to have a contingency plan that addresses all the issues. Mr. Jason asked what the time frame is for that? You aren't ready to sit down and work out a management plan until you have ownership, is that correct? Mr. Widdiss stated we can work out a plan but we don't want to impose a financial burden on somebody right now. We don't control access to the face of the cliffs, the Town, the County, and the Federal Government has certain responsibilities.

Mr. Lee stated that he has the original nomination papers for the Gay Head Cliffs DCPC and there is one thing left out of tonight's handouts and that has to do with possible advantageous developments within the Cliffs, small scale, no water intensive business are recommended as advantageous developments.

Mr. Ewing asked about the mining of clay and the statement that the Tribal members are the only ones that are supposed to mine clay, are they taking it now and to what extent? Mr. Widdiss responded those that still do traditionally pottery are. There are physical limits on how much you can take and we have had to leave it up to the good will and common sense of the people, it is not a big problem.

When there were no further questions for Mr. Widdiss, Mr. Fischer called on State agency testimony, there was none. The hearing officer then called for testimony from Town Boards.

Fred Simmons, Gay Head Planning Board, stated that briefly the main thing is that the Planning Board has been operating under the assumption for quite a few years that the existing regulations in the zoning by-laws were A) adequate to protect the Cliffs and B) all we could get in any case. There has been interest in the Cliff area in the past year or so that is brand new. When you see an open field some place and it doesn't change decade after decade you just assume it is going to go on like that, in case of the Cliffs that is not the way it is, just like any place else. When there is a sudden change you say, is this place properly protected. The Planning Board got together with the Conservation Commission and decided what could and what should be done. It suddenly became obvious that the source of support, advice and expertise was the Martha's Vineyard Commission. We met and voted unanimously to request a DCPC, wrote up the application and sent it in.

Jeff Madison, Board of Selectmen, Gay Head, stated that when you talk about increasing the depth of the district by the same distance as erosion on a yearly basis it sounds good but my personal opinion is that it is not a practical suggestion in this area. The soils change as you cross Lighthouse Road and Moshup Trail and soil studies would show this. It doesn't make sense to increase the depth of the district for that amount. My questions too is the reason for the designation. It seems to me that an appropriate reason for the designation would be to protect the visual nature and the visual intrusion from those points currently open to the the public. I think that when the final orders to the district are developed they should be nailed quite hard. There are some areas that are not covered in what is currently listed for the district, for example the two spots where the public is allowed to go and where development would be intrusive. Those two points are the lookout above the shops and the parking area at the top of the Cliffs. I think that you have adequately protected the lookout from visual intrusion but I am not sure you have adequately protected the area where the flagpole/bandstand is located. The other thing that I would hope the Commission would consider in developing the regulations is that this is the only real business district within Gay head and the zoning does

not specifically address business districts outside the marine commercial district along the shore line. It would seem appropriate to give some consideration to the size of the development that will ultimately be allowed on a commercial basis within the district.

Mr. Early asked, when talking about the size are you referring to individual scale of the structure and so forth? Mr. Madison stated yes, that currently they are within a scale compatible with the Town but that could get out of hand.

Mr. McCavitt asked, the reference to the changing soil characteristic, have there been any official studies done? Mr. Madison responded no, I was suggesting that if studies were done they would show this. If the Cliffs erode to say Moshup's Trail, the Cliffs themselves would be gone, would it then be productive to extend the district? Mr. McCavitt asked Ms. Borer if soil survey's were done? Ms. Borer responded within the district and reviewed these soil characteristics.

Mr. Ewing asked, you feel the view from the bandstand area is not adequately protected? Mr. Madison stated that is correct. There was some discussion about the suggestion of adding other lots, Map 6, lots 5, 6 & 12. Mr. Madison showed the location on a wall map, explained the topography of the area, the houses constructed, and the fact that these lots are important in protecting the views from the bandstand area.

When there was no further testimony from Town Boards Mr. Fischer called on public testimony.

Ms. Evelyn Vanderhoop, Gay Head Town Clerk, Board of Appeals member, Indian and active citizen, stated that the area she wants to address her testimony to is specifically the upper area. This is the area that would be getting new regulations, the other areas would be overlaying other districts. This area has limited land owners and lots - approximately 15 lots with 6-7 land owners. Because of these limited numbers we can get real specific in talking about what has happened, what is happening, and what will happen. Within the last 4 years there have been real estate transactions, assessed land values have almost tripled, and landowners are interested in improving and developing their land. There is a lot of human drama here. Finding suitable permeable soil for a septic system is a difficult task in this area. In 1983 David and I were fortunate enough to find a suitable septic area on our lot, it is more than 250 feet from the bluff and there are no water bodies within 200 feet of it. We were encouraged by this but chose not to build back in 1983 for financial reasons, so our future goal was to build a home on this beautiful land. With well drilling on other lots occurring, we knew that sooner rather than later the Town would realize that this area needed stronger protection. We foresaw the door to our dream closing so we have started drawing plans. She went on to explain the history of the ownership of this lot. Our intention is not to use the land carelessly but to live on our land, building for our increased family needs as well as our children's future. Further, she reviewed abutters difficulties in obtaining permits for increased usage on

lots, septic system set backs from wetlands and waterbodies, and locating wells. Ms. Vanderhoop read a letter written by Rusty Walton, Wetlands Consultant, which summarized wetland inspections in the proposed DCPC area. If we, at this time when we are designating a critical area for development, not only react to what is happening in the area of my testimony but also the north shore where I think protection should be provided, then can't we at this time consider moving the boundary down the north shore. The south shore is protected and on the south shore you don't see home owners running their own personal trails down to the shore but if you walk that north shore almost every homeowner has their own personal trail and a lot of stairs are being cut into the Cliff. I would like to state some things that I feel are real important in protecting this area: the protection of the significant aesthetic and scenic value of this area should be the primary concern, I don't think it would be right to have buildings and rooftops visible from the historic overlook; I don't think it would be right to allow commercial enterprises or accessory dwellings on lots which already contain a single family dwelling, to keep density down in this special place I feel it is appropriate to keep to one lot, one building. I feel confident there are steps that can be taken to protect this area from developmental mistakes as well as allow it to be our home land.

Mr. Fischer asked Ms. Vanderhoop if she had a copy of the letter she referred to from Mr. Walton that could be submitted for the record, she did.

There were no further questions for Ms. Vanderhoop.

Mr. Sherman Goldstein, representing the M.V. Surfcasters Association, stated that his purpose is to sensitive the Commission to another access need and which is the use of the Gay Head beach area as one of the most prime, most exciting, and most productive fishing areas on the Vineyard and perhaps in New England. Our constituency is not a large one by any means but it is an important one, our presence there is almost exclusively after dark and we are usually gone before the sun comes up so we are not a very visible one, but historically that area has been an area that has been utilized by surf fisherman. Access to the Gay head beach for the purpose of surfcasting is something that the Commission should take into account in this decision and any development plan that it implements.

Ms. Bryant, Commissioner, wanted to reassure Mr. Goldstein that that subject had come up in the planning process, surf fishermen use the beach off-season, at odd time, and without a lot of visibility and it is an important reactional use that should be maintained.

Mr. Early asked Mr. Goldstein to point to the "traditional" access on the map. Mr. Goldstein stated the entire beach area is used. Mr. Early asked if there were any areas he thought were more suitable for this access? Mr. Goldstein said yes, the foot paths, and showed the location on the maps, which were traditionally used for access. A few years ago they could go down near the Aquinnah. The other area that there is now a problem with is the Pilot's Landing access, so that



pretty much limits access to the North Shore. That means a long, long walk from the south shore around and if you are fortunate enough to catch a fish it is an even longer walk back.

Mr. Peter Diem, owner of a 14 acre parcel which he showed on the map, stated that he is in favor of protecting the Cliffs but is concerned how the Commission will go about it. I purchased the land 2-3 years ago and it was never my intent to build quick or turn it over for a quick profit. I wanted to take my time and do careful building there. I started a couple of years ago trying to get the land subdivided, and get the water and septic in place by the regulations that presently exist. The land that we are talking about is held by very few landowners and I am very much in favor of trying to work it out between the landowners. I do believe that the owners of the land are very concerned with protecting the land and the Cliffs and see that no erosion occurs. It is hard to stop nature from eroding the Cliffs, however I have noticed on my property that in the summer people dig clay there and literally this year I lost some land because of that, I think it should be policed. Even though there is a fence around the Lighthouse area, people do climb the Cliffs, I see people climbing my Cliffs, I see people digging clay pools. There is very little I can do about it and I would like to see some vehicle to police that area, but my basic interest is that I would like to see this worked out between the landowners. I don't know any landowners that are actively interested in disturbing the land. I subdivided my land into 4 lots and I am interested in continuing the development with assisting outlines and being in touch with nature and not disturbing it. I feel there might be approaches other than restricting people from doing what they are intending to do. We talked about the side of the Cliff and the time might have come to clearly outline who owns the side of the Cliff, I heard that the Indians and the Town own the Cliffs. I did some research about the history of the land, 25 years ago when the survey was done on this land it states that the Town owns the beach and the side of the Cliff and my property started from that boundary line, 25 years later that boundary line is in the Ocean. The question now is how can the Town have ownership of that land which has eroded and is now part of my deeded property? I would like to work it out so I can continue to do what I planned to do and am very much in favor of discussing it.

Mr. Jason asked what it is he plans to do? Mr. Diem responded keep one lot, a seven acres lot which he showed on the map, and sell three. He stated he applied for a building permit a few years ago but due to financial considerations he didn't build yet and the building permit has lapsed.

Mr. William Sargent, Conservation Commission, Gay Head as well as Board of Appeals member, spoke for the Conservation Commission by stating that they have jurisdiction over 100' from the edge of the Cliffs back. We got together with the Planning Board about this DCPC because the Cliff is not only unique in appearance but it is unique in that its composition and properties are such that every piece of vegetation on that Cliff is necessary in that it helps evacuate the water back out. The clay underneath does not evacuate water as

quickly. If you go in there and remove any vegetation you are creating a puddle that may create a fault. I know it doesn't stop at 100' it goes back to different distances at different areas. I'm not saying people should or shouldn't build, but what I am saying is that is has to be considered that you can not haphazardly create a road without creating a fault line, you can not literally walk from one house to another repeatedly without creating a fault line. I've spoken to one of the selectmen, Mr. Delaney, about it and there are certain types of walkways that can be placed without destroying the vegetation and creating a fault line. We are happy to see this DCPC so that things aren't haphazardly created, so that landowners know what they are doing.

Ms. Colebrook, Commissioner, asked how close to the edge of the cliffs are those walkways anticipated? Mr. Sargent stated it wasn't determined yet it was just discussed as an idea.

Mr. Widdiss, Gay Head resident, stated that the main problem with the area is regardless of what regulations you come up with the area that is most critical to the district is not going to react to those rules. I mean the Cliff area is going to do its thing no matter what barriers you put in books. In Gay Head we have some of the most restrictive zoning on the Island, and as I said a few weeks ago I believe that this area is governed adequately by that zoning. As much as I think it is a critical area I don't know if it deserves this designation and I think a deeper investigation into what laws and regulations that can govern it is appropriate. I think with what we have for zoning, and if the zoning boards that the Town elects and appoints regards that zoning as critical in that area, I don't think there will be problems.

Walter Delaney, Chairman Board of Selectmen, wants to make one thing clear, that we as a board, including myself, have not and will not consider putting a walk across the face of the Cliff. It is private property and we don't have any control. The Land Bank is trying to find some way to put a walk through their property to relieve the impact down in there and getting the public off the road if they possible can. The Town is working with them and hopefully we will resolve that but we are talking from the Town parking lot to the Long property not the observation area to the sound area, that is private property. Mr. Early asked Mr. Delaney to point out the area he is referring to. He showed it on the map.

Trudy Taylor stated she lives in Chilmark and owns property in the Cliff area and has for some time. She is very interested in the Island as a whole and Gay Head. She gave a brief history of acquiring her property, of which some is owned by her children. I sold 14 acres to Peter Diem and hope he will do the right thing with it, I think he will with the right guidance. We need to remember that not everyone in Gay Head is a summer person. We have had several houses go up in Gay Head which I call monstrosities. They makes huge demands on the ecology of the land, they take bulldozers and rip hills apart and rip out the vegetation and then get some off Island fancy architect to come and build monuments to themselves and their egos. It seems to me that we should be very concerned about that type of building that is

going up. Now what I would like to address is that the young people who stay here and are raising families here, the people who are really want to live here should be able to live as well as they can and continue a simple way of life, I really believe that. I think we have to trust local boards to do their work. I want to do that. I want to be responsible for electing officials who are responsible, let them do their work, and talking it out as we have tonight. Let's encourage people who are here year round to get their needs filled.

When there was no further testimony Mr. Fisher asked Mr. Young, Chairman of Land Use Planning Committee to read the correspondence.

Mr. Young read a letter from Virginia Jones, Chairman of the West Tisbury Planning Board dated March 14, 1989, summarized as follows: The Cliffs and the surrounding area are the pre-eminent area of interest on Martha's Vineyard (prehistorically, historically, geologically, archaeologically and environmentally) to virtually every Island resident and most seasonal residents as well. The fact that they escaped designation as a DCPC early in the Commission's existence is almost a testimony to their importance, everyone realized their significance, presumed that they were protected and forgot to check. Perhaps it was assumed that the National Natural Landmark Program provided protection. Now that we know that isn't the case please remedy this oversight by action as soon - and as forcefully - as possible. The Cliffs are unique in all the world with source composition of clay, colors, fossils, etc. and deserve protection. The vistas from this site are presently unparalleled and almost unspoiled. The lighthouse has historically marked the entrance to Vineyard Sound and is still used by recreational boaters. It was also stated that there is a necessity to make the geographical location as broad as possible. The Cliffs are under assault from the forces of nature, and from those forces we can not provide protection, but we can prevent them from becoming eyesores such as Virginia Beach or Atlantic City, or worse. (Correspondence is available in its entirety in the DCPC file.)

When there were no further questions, correspondence or testimony, Mr. Fischer closed the public hearing at 10:02 p.m. with the record remaining open for one week.

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After a short recess, Mr. Early, Chairman, opened the Special Meeting of the Commission at 10:14 p.m. and addressed agenda items as follows:

ITEM #1 - Chairman's Report - There was none.

ITEM #2 - Old Business

Mr. Early stated that during the executive session last week the Commission took up the matter of the Vineyard Conservations Society's (VCS) Motion to Intervene in the suits brought by MVY Realty Trust. The Commission voted unanimously to instruct Commission Counsel to take action. Subsequently on Friday an article in the Gazette dealt

with the matter of the intervention. In my opinion, and that of the Executive Committee, the article and the headlines in particular were misleading and not factually correct. The Executive Committee met for about 3 hours Tuesday night, and again for approximately 2 hours Wednesday morning and drafted a letter to the Editors of the Vineyard Gazette. This letter appeared today in the M.V. Times and I assume will appear tomorrow in the Gazette. We felt the role of the Executive Director was grossly misrepresented in the Gazette article and we tried to layout as clearly as possibly the sequence of events and why the director of the VCS wasn't permitted to give verbal testimony. Mr. Early then asked if any other members of the Executive Committee wanted to comment.

Mr. Filley suggested that all Commissioners read the letter referred to.

Mr. Early then stated that the Commission also directed the Commission Counsel to oppose the Motion to Intervene by VCS for specific reasons and also asked that a press release be prepared and that both these documents be reviewed by the Executive Committee prior to release. We felt that the press release contained too much legal language, so Mr. Young redrafted it in layman's terms.

Mr. Young read the press release (available in the Meeting file). Copies of the opposition to the Motion to Intervene and copies of the letter to the Editors of the Vineyard Gazette are also available in the Commission Offices.

ITEM #3 - Minutes of April 6, 1989

It was motioned and seconded to approve the draft minutes with one correction as follows: Page 2, paragraph 7, change Walter to Walton. This motion passed with no opposition, 1 abstention, Jason. (Harney was in favor.)

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Morgan, Legislative Liaison, reported that the Moped Bill #2093 received favorable recommendations, this bill has to do with licensing moped dealers. A new bill was also introduced that deals with requiring moped insurance. Concerning the excise tax bill, this looks like it will take second place to a State wide bill. He went on to state that it is suggested that two-thirds of moneys collected under this bill would be earmarked for the corrections/jail facilities and this is unnecessarily here since our jail has received every thing it needs. He stated that Representative Turkington was going to recommend that Dukes County be excluded from that provision in the bill. Discussion followed among the Commissions of the breakdown of the remaining portion of the funds and whether this could be directed to the Dukes County Regional Housing Authority. Mr. Morgan stated that 66% would go to the correctional facilities, 24% would go to the County, and the remaining 10% would go to the Registry of Deeds.

Mr. Young, Chairman of Land Use Planning Committee (LUPC), stated there will be no meeting next week. Last weeks meeting had 6 items on the agenda and this will be discussed at a later date.

Mr. Borer stated that the Gay Head Cliffs Area DCPC Committee would meet tonight after the Commission meeting to discuss 2 exemption requests.

ITEM #5 - Possible Vote - Written Decision, Vineyard Crossing DRI, Town of Tisbury

It was motioned and seconded to approve the written decision as prepared. There was no discussion. The motion passed on a vote of 11 in favor, 1 opposed, 4 abstentions, Evans, Filley, Sibley, McCavitt. (Harney was in favor.)

ITEM #6 - New Business - There was none.

ITEM #7 - Correspondence - There was none.

The meeting was adjourned at 10:33 p.m.

ATTEST

  
\_\_\_\_\_  
John G. Early, Chairman      Date 4/20/89

  
\_\_\_\_\_  
James Young,  
Clerk/Treasurer      Date 4/20/89

Attendance:

Present: Bryant, Colebrook, Early, Eber, Evans, Ewing, Filley, Fischer, Jason, Lee, Morgan, Scott, Sibley, Wey, Young, McCavitt, Harney.

Absent: Medeiros, Delaney, Allen, Geller.